

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

**Kenyon Road Baptist Church of Fort Dodge
Iowa,**

Petitioner-Appellant,

v.

Webster County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-94-0184

Parcel No. 0731126002

On June 28, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Church Chairman Blair J. Conley represented Kenyon Road Baptist Church of Fort Dodge Iowa.¹ Webster County Attorney Cori Kuhn Coleman represented the Board of Review. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Kenyon Road appeals the Webster County Board of Review decision regarding the January 1, 2011, assessment of its property located at 407 Kenyon Road, Fort Dodge, Iowa. According to the property record card, the subject property consists of two buildings: a 5677 square-foot retail store built in 1975, and a 3096 square-foot greenhouse built in 1975. The 1.55-acre parcel also has 6100 square feet of asphalt paving. The property was classified commercial and valued at \$87,930, allocated as \$33,270 in land value and \$54,660 in improvement value. The property also received a 25% exemption for religious use.

¹ Formerly known as Calvary Baptist Church of Fort Dodge.

Kenyon Road protested to the Board of Review on the ground that the property was exempt from taxes under Iowa Code section 441.37(1)(a)(3). The Board of Review denied the protest.

Kenyon Road then appealed to this Board reasserting its claim. It asserts the property should receive a full exemption as a religious institution.

Blair Conley, Chairman of the church board, testified on Kenyon Road's behalf. He testified the building has had on-going renovation and that no worship services are held in it. The church also has no pastor, but Conley stated he is acting as the interim pastor. In lieu of compensation, Conley uses a portion of the facility to store personal belongings. Conley asserted the congregation includes thirty to thirty-five members; however when questioned, he noted that only three were "active." Two of the three active members are Conley and his wife, Margaret. He did not provide the church's membership list.

Conley submitted Exhibit 5, which he titled a "property use" document. He asserts this document demonstrates the entire property is being used for religious purposes. Conley notes the property's use for religious activities from the time it was purchased in 2002 through 2012. He listed the property's uses, which include: office use for various ministry purposes, personal prayer, storage of church records and furniture, and housing the church library. Conley also detailed all of the grounds and facility maintenance work. He reported separate meetings were held in August 2010 with "Iowa District West" and a "potential staff candidate."

Worship services do not occur at the location because they are not allowed by building code, and the church has no occupancy permit. When the property was purchased in 2002, Kenyon Road was aware it could not be used for worship until it was brought in compliance with

the code and received the permit. Although the building is currently unable to be used, there was no testimony indicating church services or activities were being held elsewhere in the interim.

Conley also discussed Kenyon Road's Exhibit 2, which is a reiteration of Iowa Administrative Rules he believes are applicable to this case. Conley believes the relevant time period for establishing whether the property is entitled to an exemption is July 1, 2011, through June 30, 2012, based on Iowa Administrative Rule 701-80.55(1). Kenyon Road also submitted a policy letter from Cody J. Edwards, an attorney with the Tax Policy and Communications division of the Iowa Department of Revenue, to support this conclusion. Ultimately, we need not reach the issue as to what dates are relevant in determining whether a property is entitled to an exemption because the evidence suggests the property has been used in nearly the same manner from the time it was purchased to the present.

Finally, Conley asserts that a neighboring property located at 409 Kenyon Road, owned by the Iowa District West of the Lutheran Church, is treated differently than his property. The Iowa District West building received a larger exemption than the 25% exemption Kenyon Road enjoys.

County Assessor Jeanette Thanupakon explained the differences between Kenyon Road's exemption and Iowa District West's property. Thanupakon noted that Iowa District West received a higher exemption because more of the property was used solely for appropriate purposes. Iowa District West did not receive a full exemption, however, because a portion of the building was rented out and not used for religious purposes. She noted that although there are no worship services or other specific worship activities conducted at the Iowa District West facility, the purpose of the facility is religious in nature and actively serves the District area. Thanupakon

explained how she inspected the Iowa District West facility to determine the amount of the exemption, and it was the same process her office used to determine Kenyon Road's exemption.

James Kesterson, Chairman of the Board of Review, testified that in his opinion nothing has changed in the use of the property since the last time this appeal came before the Board in 2010.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

Kenyon Road is seeking a tax exemption for the subject property under Iowa Code section 427.1(8). This section provides: "All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, [...] and not leased or otherwise used or under construction

with a view to pecuniary profit.” § 427.1(8). Interpreting this provision, the Iowa Supreme Court recognized three essential requirements to qualify for the exemption: (1) the property must be used by a charitable, religious, or educational institution or society, (2) the actual use of the property must be solely for the appropriate objects of the institution, and (3) the property must not be used with a view to pecuniary profit. *Congregation B’Nai Jeshurun v. Bd. of Review*, 301 N.W.2d 755 (Iowa 1981). In an exemption case, the Appeal Board must strictly construe “a statute and any doubt about an exemption is resolved in favor of taxation.” *Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000).

In this case, the third requirement is satisfied; there is no evidence to suggest the property is being used for any pecuniary profit.

It would also appear the Board of Review does not seriously dispute that at least a portion of the property is owned and used for appropriate purposes by a religious organization, as the Board of Review granted Kenyon Road a partial exemption. Kenyon Road, however, argues it is entitled to a full exemption on the property.

We believe there are two issues that must be addressed: 1) whether the fact that the property is allegedly being renovated to be used in the future by this organization should entitle it to a full exemption; and (2) whether Kenyon Road is a religious institution or society under the meaning of section 427.1(8).

It appears an issue of contention in this case is whether the property has to “actively” be used to qualify for the exemption. Kenyon Road alleges part of the property has been under renovation, and therefore, the entirety of the property should be exempt from taxation. Property owned by and used solely for the purposes of a religious society or institution are entitled to an exemption if the property is under construction. § 427.1(8). The Iowa Supreme Court has

determined that property being renovated or repaired is under construction and should be entitled to an exemption during the renovation if the property will be exempt once the renovations are completed and it is occupied. *Des Moines Coalition for the Homeless v. Des Moines City Bd. of Review*, 493 N.W.2d 860, 862 (Iowa 1992). Thus, if the portion of Kenyon Road's property, or all of the property, is currently under renovation and would otherwise qualify for an exemption when it is completed, it should receive the renovation now. However, it would not appear *Des Moines Coalition for the Homeless*, would extend the exemption to a property that is under renovation indefinitely. *Id.*

Rather than determine if Kenyon Road is entitled to a greater exemption than it is currently receiving because the property is allegedly being renovated, we identify an overarching issue. In order to qualify for the exemption, the property must be used by a *religious institution or society*. The Iowa Supreme Court has previously determined a religious institution or society must be more than the members of nuclear family. *Parshall Christian Order v. Bd. of Review*, 315 N.W.2d 798 (Iowa 1982). In *Parshall Christian Order*, the Court closely examined the definition of religious institution or society. It iterated that in a religious institution or society, "various individuals . . . have become associated only through their mutual desire for worship and religious education. Were it not for that desire the association of those particular individuals would not have occurred." The Court concluded that the family unit claiming the exemption "are not associated only because of their desire for mutual worship; they are associated as a family" and thus "were not a religious institution or society within the meaning of section 427.1(8) because the "predominant reason for [their] association is not religious pursuit." In this case, Kenyon Road claims to have approximately thirty-five members, but Conley appeared to testify that only three are apparently active members in the alleged religious

organization. Two of these members of the organization are Conley and his wife. There is no evidence to suggest that Kenyon Road conducts worship services at *any* location. Because of the similarity of this case to *Parshall Christian Order*, we have some doubt as to whether this property would actually be considered a religious institution or society under that case. However, because the Board of Review has, for this assessment year, concluded Kenyon Road qualifies as such, we will not disturb their determination.

We find that the Board of Review has been generous in determining that Kenyon Road is engaged in religious endeavors. We do not find merit in the claim that a larger portion of the subject's property or the entirety of the property should receive exempt status simply because an organization that claims to be religious in nature owns the property.

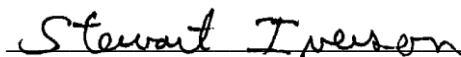
For these reasons, we affirm its assessment.

THE APPEAL BOARD ORDERS the assessment of Kenyon Road Baptist Church of Fort Dodge, located at 407 Kenyon Road, Fort Dodge, Iowa, of \$87,389 as of January 1, 2011, as set by the Webster County Board of Review is affirmed.


Dated this 19th day of August, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on August 19, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature  _____